



Entered on Docket
November 12, 2010


Hon. Mike K. Nakagawa
United States Bankruptcy Judge

RICK A. YARNALL
CHAPTER 13 BANKRUPTCY TRUSTEE
Marianne Gatti, Esq.
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UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA

In re:

TODD WESLEY HOWELL, and
ERIN HOWELL,

Debtor.

BK-S-10-18685-MKN
Chapter 13

Hearing Date: N/A
Hearing Time: N/A

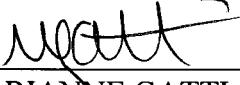
EX- PARTE ORDER DISMISSING BANKRUPTCY PROCEEDING

On or about August 5, 2010, Debtors, Todd & Erin Howell, by and through their counsel, Rulon J. Huntsman & Associates, L.L.C., entered into a Stipulation to Convert or Dismiss Case by Date Certain; Order Thereon (the "Stipulation") (See Docket #35) with Rick A. Yarnall, Chapter 13 Bankruptcy Trustee, by and through his counsel, Marianne Gatti, Esq. The Stipulation required the within Debtors to either voluntarily convert their case under Chapter 13 to one under Chapter 7 by September 6, 2010, or to voluntarily dismiss their case by that date.

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2 **IT IS HEREBY ORDERED** that the above-captioned bankruptcy proceeding under Chapter 13
3 is **DISMISSED** for the Debtors' failure to either voluntarily convert their case under Chapter 13 to one
4 under Chapter 7 or to voluntarily dismiss their case by that date.

5 **IT IS SO ORDERED.**
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8 Respectfully Submitted:
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11 MARIANNE GATTI, ESQ.
12 Nevada Bar No. 7717
13 701 Bridger Avenue, Suite 820
14 Las Vegas, Nevada 89101
15 Attorney for RICK A. YARNALL
16 Chapter 13 Bankruptcy Trustee

17 DATE: 11-4-10
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1 RICK A. YARNALL
 2 CHAPTER 13 BANKRUPTCY TRUSTEE
 3 Marianne Gatti, Esq.
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E-filed: 11-9-10

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 7 UNITED STATES BANKRUPTCY COURT
 8 FOR THE DISTRICT OF NEVADA

9 In re:

10 BK-S-10-18685-MKN
 Chapter 1311 TODD WESLEY HOWELL, and
 12 ERIN HOWELL,13 Hearing Date: N/A
 Hearing Time: N/A

14 Debtor.

15 **AFFIDAVIT IN SUPPORT OF EX-PARTE ORDER OF DISMISSAL**

16 County Of Clark)
 17) ss:
 State of Nevada)

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 19 I, Leah Abeyta, being first duly sworn upon his oath, hereby deposes and says:

20 1. That I am an employee of Rick A. Yarnall, Chapter 13 Bankruptcy Trustee make this
 21 Affidavit of facts from personal knowledge which is known to me except for those matters stated upon
 22 information and belief, and as to those matters, I believe same to be true;

23 2. That I make this Affidavit in support of the Ex-Parte Order of Dismissal;

24 3. On or about August 5, 2010, a Stipulation To Convert Or Dismiss Case By Date Certain;
 25 Order Thereon was entered into between Rick A. Yarnall, Chapter 13 Trustee and Debtors' counsel,
 26 requiring the Debtors to either convert or dismiss their chapter 13 bankruptcy case by September 6, 2010;

27 4. On September 7, 2010, the Chapter 13 Trustee had received a request from Mr. Huntsman,
 28 requesting that the Debtors be allowed to proceed under a Chapter 13 Bankruptcy Case due to a change
 in Debtors circumstances and that a new plan would be filed;

1 5. On September 8, 2010, Mr. Huntsman was advised by the Trustee's office that in order to
 2 proceed with this Chapter 13 case he would have to notice a new date and time for the 341(a) Meeting of
 3 Creditors. Also, a new date for the Confirmation Hearing would have to be noticed along with filing and
 4 properly noticing a new Chapter 13 Plan;

5 6. That at the time of this affidavit, it appears that Counsel did file a modified Chapter 13
 6 Plan (docket #41) and noticed the modified Chapter 13 plan (docket #43), however the Clerk of the
 7 Courts filed a Notice of Modification (docket #43) advising that the modified Chapter 13 Plan had a
 8 discrepancy and needed to be corrected and re-docketed. It should be noted that Counsel has failed to re-
 9 docket a corrected Chapter 13 plan, nor did Counsel notice a new 341 (a) Meeting of Creditors, see
 Docket generally;

10 7. That on September 23, 2010, I emailed Mr. Huntsman an email advising that pursuant to
 11 the Notice of Modification, he must correct his plan and notice as soon as possible; and

12 8. That pursuant to the Court's docket, the Debtors have failed to notice a 341(a) Meeting of
 13 Creditors, and also failed to correct their Chapter 13 plan, as per the Clerk of the Courts request.

14 FURTHER, AFFIANT SAYETH NAUGHT this 5th day of November, 2010.

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LEAH ABEYTA
 An employee of RICK A. YARNALL,
 Chapter 13 Bankruptcy Trustee

SWORN to and SUBSCRIBED before me this
5th day of November, 2010.

CINDY L. COONS
 NOTARY PUBLIC in and for said County and State

